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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,312	12/09/2005	Izumi Usuki	P28954	4988
52123 7590 07/21/2011 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER INGVOLDSTAD, BENNETT				
ART UNIT		PAPER NUMBER		
2427				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary

Application No.

10/560,312

Applicant(s)

USUKI ET AL.

Examiner

BENNETT INGOLDSTAD

Art Unit

2427

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 25 March 2010 have been fully considered. Applicant discusses the Vermola reference, noting an alternative interpretation of Vermola that Applicant believes more closely aligns with the claimed invention. Remarks at 8. However, the examiner maintains that the provided interpretation of Vermola's bursts is appropriate, since Vermola describes the bursts as such (see para. 0071) and Applicant does not sufficiently define the claimed bursts to distinguish from Vermola's bursts.

Nevertheless, Applicant argues that Vermola is overcome by the new limitations requiring that each sequence of bursts contains all of a third stream of data related to both a first and second stream. Remarks at 9. The examiner disagrees. Vermola teaches, in the cited embodiment of Fig. 13, that the ESG or "third stream" data is transmitted as ESG1 data with a first burst and ESG2 data with a second burst. However, Vermola does not specify the contents of ESG1 and ESG2. In other parts of the specification, Vermola teaches that all or part of the ESG data may be transmitted at a predefined interval (see para. 0049), and further that the bursts may contain identical data (para. 0072). Thus, ESG1 and ESG2 could contain identical ESG data, either in a portion or all of the ESG data. Since the ESG contains a list of all services (para. 0049), it would be obvious for the ESG1 and ESG2 data to contain the claimed data related to the first and second service.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12–14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PG-Pub. No. 2005/0090235 (“Vermola”). Applicant is advised that the Vermola reference is an “intervening” reference by virtue having an effective filing date (5 Nov. 2003) prior to the filing date of Applicant’s parent PCT application (26 Oct. 2004), but later than Applicant’s earliest priority date (30 Oct. 2003). Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim 12. Vermola teaches a transmission method for transmitting a plurality of streams in a multiplexed format, comprising:

Generating, using a multiplexer device, a transmission stream through multiplexing of a first stream having data of a first service (see Fig. 13 & description, illustrating stream S1m having components of service S1), a second stream having data of a second service (Fig. 13: components S2m of service S2), and a third stream (Fig. 13: ESG stream) having data related to the first service and data related to the second service (para. 0074: ESG data includes metadata describing the services);

Transmitting, using a transmitter, said transmission stream (para. 0028);

Wherein said transmission stream has such a structure that first bursts for transmitting the first stream and second bursts for transmitting the second stream are located periodically in said transmission stream (see Fig. 13 and para. 0071, discussing bursts 130 and 131);

Wherein each of at least one batch that concludes with a pause in transmission includes one of said first bursts and one of said second bursts (Fig. 13 and description: each burst concludes with a pause interval, the "batch" of both bursts thus ending with a pause);

Wherein said third stream is carried in said first bursts and also in said second bursts (see Fig. 13).

Vermola illustrates at Figure 13 two components of ESG data (ESG1 & ESG2), but does not specifically teach whether the entire content of the ESG is carried in both first bursts and second bursts of Figure 13, or whether ESG1 and ESG2 carry the same or different data.

However, Vermola teaches that part or all of the ESG may be sent at predefined intervals (para. 0049). Additionally, consecutive bursts may contain the same data (para. 0072).

Thus, one of ordinary skill could have combined the teachings so that the ESG components of each burst contain all of the ESG data, thus yielding the predictable result of sending all of the ESG data at the predefined interval between the start of each burst. Alternatively, the teachings could have been combined so that each burst carries

the same portion of ESG data, thus yielding the predictable result of delivering all of the data in each of a sequence of first bursts and a sequence of second bursts, as claimed. One of ordinary skill would have recognized the desirability of either modification because it would allow a user tuned to a single service to receive all of the ESG data in the bursts related to the viewed service, thus increasing power savings as desired by Vermola (see Vermola para. 0044) by turning the receiver off during bursts related to services that are not being viewed.

Claim 13, 14, 16. Vermola further teaches the data for the first and second service is "high quality content data" using Applicant's definition provided at claim 14, namely "data containing video data and audio data of the content" (see Vermola para. 0004: services are video broadcast channels); and that the data related to the first and second service is "low quality content data" using Applicant's definition provided at claim 16, namely "text data related to the content" (see e.g. Vermola para. 0049).

Claim 17 is met as discussed above for claim 12, Vermola further teaching a transmitting apparatus for implementing the method, the system including a multiplexer and transmitter (see e.g. Fig. 1 and description).

Claims 15, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermola in view of WIPO Pub. WO 03/073753 ("Yamaguchi").

Claim 15. Vermola does not further teach that the third data, i.e. the "low quality content data", is data containing still image data and/or audio data related to the content.

Yamaguchi teaches that "zapping" metadata about each of several channels may be multiplexed and transmitted with the channel data (pg. 30, line. 23 – pg. 31, line 7). The zapping data may include text, or alternatively image data (pg. 6, ll. 4–8), and is used to provide information about a channel while tuning to the channel (pg. 6, ll. 9–11).

It would have been obvious to add the zapping image data as an alternative to Vermola's text data, as described by Yamaguchi, thus yielding the predictable result of transmitting image metadata in the ESG, and further for the purpose of providing more information to aid viewers in channel selection (see Vermola para. 0059).

Claim 18. Vermola further teaches a receiving method for receiving the transmission stream discussed above for claim 12, and further receiving the transmitted stream "partially and selectively during a period at which the first bursts or the second bursts, being selected by a service recipient, are transmitted (see paras. 0044, 0112); extracting and storing the third stream from the first or second bursts (para. 0050);

Vermola does not further teach that the third stream data is presented when the service recipient alters the receiving service from one service to another.

Yamaguchi teaches "zapping" metadata that is used to provide information about a channel while tuning to the channel (pg. 6, ll. 9–11), i.e. when altering the receiving service.

It would have been obvious to add the zapping data to Vermola's metadata, as described by Yamaguchi, thus yielding the predictable result of presenting the zapping data after altering the received service, i.e. during tuning of a new channel, thus

providing more information to aid viewers in channel selection (see Vermola para. 0059).

Claim 19 is met as discussed above for claim 18, Vermola further teaching a receiving apparatus for implementing the method (see e.g. Fig. 2 and description).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENNETT INGOLDSTAD whose telephone number is (571)270-3431. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Bennett Ingvaldstad/
Examiner, Art Unit 2427